

AGENCY CHECKLIST
FOR CONFISCATED FIREARMS/OTHER DEADLY WEAPONS

Case # _____ Subject's Name _____ Property received on _____

Agency Intake of Firearms/Other Deadly Weapons

- ☐ Conduct CLETS/AFS search for each confiscated firearm to determine if stolen, under observation, lost, etc.
Date of AFS search _____ Conducted by _____
- ☐ Enter all firearms into AFS (PC 11108). *The crime gun tracing requirement (PC 11108.3) can only be met by entering firearms as "Found", "Evidence", or "Crime" firearms.*
- ☐ Date of AFS entry _____ Entered by _____
FCN # _____ Type of Record (Found, Evidence, etc.) _____

Duration of Retention

The duration of the retention of firearms is dependent on the type of incident responded to.

- ☐ Agency may charge storage fee (PC 12021.3(j)(1))
☐ Subject notified of storage fee on _____ ☐ Storage fee indicated on Receipt and Notice of Rights form
- ☐ DV incident without protective order (firearms to be held not less than 48 hours but must be made available for return no longer than 5 business days from seizure unless weapon is retained for evidence or illegally possessed (PC 12028.5(b))
- ☐ Protective Order – type of order _____
- ☐ Firearms restriction on Protective Order ☐ Yes ☐ No
☐ Hold for duration of Order. Expiration date of Order _____ (FC 6389(g))
☐ Respondent is entitled to make one sale to a licensed firearms dealer of all legally possessed firearms in agency possession (FC 6389(i)).
Firearms are only to be released to a licensed firearms dealer, other than the respondent, pursuant to PC 12071. Name of dealer _____
Date of sale _____
- ☐ MH (W&I 8100(b)(1)) [Tarasoff] – Hold for 6 months
☐ Send Tarasoff prohibition report (form FD 4074) to DOJ (Firearms Division, P.O. Box 820200, Sacramento, CA 94203-0200). Date form sent to DOJ _____
- ☐ MH (W&I 8102) – Firearms returned to subject if subject is evaluated and released by mental health facility deemed not 5150. Agency must petition court within 30 days of subject's release if agency determines need to retain firearms.
- ☐ MH (W&I 8103):
☐ W&I 5150/5151/5152 – Prohibited for 5 years (Subject must petition court pursuant to W&I 8103(f) for relief)
☐ W&I 5250, 5260, 5270.5 – Lifetime federal prohibition
☐ PC 1026, 1370 – Lifetime federal prohibition
☐ Other _____

Domestic Violence Incidents – Petition for Forfeiture of Firearms

- ☐ Initiate petition to forfeit firearms confiscated pursuant to DV incident (PC 12028.5(f))
☐ Date firearms seized _____
☐ Date petition initiated _____ (Must be within 60 days of seizure, 90 days if extension granted)
Extension granted on _____
- ☐ After requesting petition for forfeiture, the agency shall notify the owner/possessor that he/she has 30 days to respond to court clerk to confirm his/her request for a hearing and that failure to respond shall result in a default order forfeiting the confiscated firearms/other deadly weapons. Notice must be sent by registered mail, return receipt requested, at the person's last known address. (PC 12028.5(g)) Date of notice _____

Mental Health Subjects (applies only to W&I 8102 subjects) – Petition for Forfeiture of Firearms

Petition granted under W&I 8102 will not reinstate firearm rights for W&I 5150, 5250, 5260 or 5270.5

- ☐ Notification that subject was released from mental health facility without W&I 5150/5151/5152 diagnosis.
- ☐ Notification received on _____ from _____
- ☐ 30 days to initiate petition to retain firearms/other deadly weapons (including extensions, petition must be filed within 60 days of release from mental health facility)
- Date of petition _____ Date of extension _____
- ☐ Notice regarding right to hearing sent to subject
- ☐ Petition Granted ☐ Yes ☐ No Date _____

Return of Firearms

Subject must submit a Law Enforcement Gun Release Application to DOJ prior to the return of a firearm. Once the firearm eligibility check has been completed, both the subject and the custodial agency will be notified via U.S. mail of the eligibility check results. If the eligibility check is approved the subject must provide a copy of the DOJ determination notice to the agency prior to release of firearms. If subject is prohibited, forward information to prosecuting agency.

Do not return firearm(s) if it is evidence in pending case or person is otherwise prohibited. Contact city attorney, case officer, etc. if you believe the return of firearms will be a danger to subject or others.

- ☐ Subject notified of availability of return of firearm on _____
- ☐ DOJ eligibility determination presented on _____ by _____
- ☐ Proof of eligibility determination verified on _____ by _____
- ☐ Prior to release of firearms conduct CLETS/AFS search for each firearm to verify that firearm(s) have not been reported stolen and to verify that handguns have been reported in AFS in the name of the subject seeking return of the firearm(s). Long guns are not reported in AFS.

Date of AFS search _____ Conducted by _____

- ☐ Firearms returned pursuant to: ***Do not release firearms unless subject provides proof of eligibility.***

- ☐ Expiration of Protective Order. Date of expiration _____
- ☐ Court Order for return or relief of prohibition. Issued by _____ on _____
- ☐ Mental Health petition granted for return of firearms. Granted by _____ on _____
- ☐ W&I 8102 (does not reinstate firearms rights for W&I 5150, 5250, 5260, 5270.15)
- ☐ W&I 8103(f) & 8103 (g)
- ☐ No longer needed for evidence purposes
- ☐ Return of firearm taken for safe keeping

- ☐ Firearms returned on _____ by _____
- ☐ Released to: _____. If released to someone other than subject, that person must present DOJ eligibility determination notice unless that person is a fully licensed California firearms dealer.
- ☐ Released to firearms dealer – CFD # _____

- ☐ Retained for agency use
- Retention purpose _____
- ☐ Update status in AFS upon release of firearms. (PC 11108)
- Date of AFS update _____ Updated by _____

Destruction of retained firearms

- ☐ Any firearms confiscated pursuant to a DV incident and held longer than 12 months shall be destroyed (PC 12028.5(e)) unless active court case or appeal is in progress.
- ☐ Date of court destruction order _____
- ☐ Date of destruction _____
- ☐ Enter into AFS as destroyed firearms (PC 11108)
Date of AFS update _____ by _____
- ☐ If no response to petition notice order within 30 days from mental health subject, agency may petition for default (W&I 8102(g))
- ☐ Court ordered destruction on _____
- ☐ Enter into AFS as destroyed firearms (PC 11108)
Date of AFS update _____ by _____
- ☐ Agency not required to retain a firearm for more than 180 days after the owner has notified that the firearm has been made available for return. (PC 12021.3(g))
- ☐ Date subject notified of availability of firearms for return _____ (180 days _____)
- ☐ Enter disposition into AFS (PC 11108)
Date of AFS update _____ by _____
- ☐ Firearms retained for official agency use on _____
- ☐ Enter into AFS as retained for official agency use (PC 11108)
Date of AFS update _____ by _____